

From: LIN HART
To: Microsoft ATR
Date: 11/17/01 6:31pm
Subject: Microsoft Case

To: The Justice Department
Re: Consumer Response

Over the past few weeks I have been attempting to understand the decisions coming from the Justice Department in response to the Microsoft case. It would appear as if they've decided to represent Microsoft rather than the people's best interest. The details of their most recent decision does little if anything to rein in the growing reach of Microsoft in it's efforts to dominate and control the PC/IS, wireless and Internet based technologies.

It seems to me that one of the keys areas left unresolved is "middle ware" and Microsoft intentions regarding the use, sale and deployment of "middle ware." It appears that Microsoft competitors have been left at the mercy of Microsoft by the Justice Departments proposed settlement. The settlement, if upheld by the court, allows Microsoft to continue using it's Monopoly operating system as a kind of Trojan Horse, bundling it's product offering into the operating system. Such a procedure further facilitates Microsoft's practice of injecting current and future applications directly into the consumers experience, while competing middle ware providers of applications for music players, browsers, CD burners, Java apps and financial programs (just to name a few) have to continue fighting an uphill battle to access the same customer space.

Action that were not adopted, such as the one mentioned below, would have given considerably more weight to the proposed settlement:

"The Justice Department also considered forcing Microsoft to sell a stripped-down version of Windows that did not include built-in software for browsing the Internet, reading e-mail, listening to music or sending instant-messages. "

Infobeat Article

11/16/01

The current settlement seems to have found a way to ignore current reality and the future market implications. OEM equipment providers will not be significantly incented or motivated to challenge Microsoft and its present position of advantage. To do so would be too costly. Competing software companies are in no position to do so, given Microsoft's size, monopoly positioning and financial capabilities. Competing middle ware companies are going to get crushed; leaving Microsoft with a clear field to continue their domination.

There is much more that confounds me about this case. The proposed Justice department settlement is laced with loopholes for Microsoft to dance around it's obligations. Access to key Windows code has been effectively shielded from non-Microsoft application programmers. How absurd is it to think that a panel of 3 people can keep a tight rein on Microsoft, when even the Justice Department and the Federal Government seem to be unable to do so?

I hope the judge presiding over this case will give considerable consideration to pushing back against the Justice Departments and Microsoft's position. The current settlement proposal is comparable to giving General Motors unfettered power to determine the brand and type of cars that will use the interstate highway system and to allow them to deliver to the consumers door their own brand of gas, tires and oil. Given this kind of power to influence consumer choice, the results would be pretty obvious. Of course even this scenario, if enacted, would be significantly farer than what the Justice Department is now offering up. At least General Motors has some form of competition already in place; something Microsoft has never had to deal with.

I have enormous respect for the 9 states and their attorneys, who have demonstrated the kind of intestinal fortitude, lacking by our federal judicial system and many of our elected officials. With all due respect to the Justice Department, political tinkering and political influence seems to be written all over this case.

I'm hoping the Justice Department will find cause to revisit their findings and their proposed solution.

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